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Before the Arizona Corporation Commission

Docket No. E-00000A-02-0051 - E-00000A-D1-D630

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 ARIZONA CORPORATION COMMISSION
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Response to staff's inquiry into retail electric competition in Arizona

Background:

Staff of the Arizona Corporation Commission held a workshop on retail electric competition on November 14, 2008. At the workshop, Staff asked the participants to file written comments on several topics. Comments had been due by January 30, 2009. Staff is interested in receiving comments from interested parties who would like to refresh their responses or who had not previously responded on the following topics:

- 1) potential risks and benefits of retail electric competition,

If a company engages in "predatory pricing" by charging a low rate designed to drive competition from the market. When that result is achieved, the company has monopoly control of the market.

We are in agreement with the Phelps Dodge decision with respect to this potential risk.

"The Commission appears to acknowledge the feasibility of this scenario by acknowledging that "the regulatory structure devised by [it] creates a market in which, *at least for the transition period*, a new competitor cannot charge rates higher than the incumbent's.""

For example, the court envisioned that the Commission could use fair-value determinations to assess whether the marketplace is functioning fairly and is free from price gouging or predatory pricing"

Arizona Corporation Commission

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The benefits related to an open access market in electricity are numerous. All commercial and manufactures want to participate in lower rates. We propose that all large commercial and Industrial customers are allowed to participate vs. the proposed 1 mw threshold. In the past we have found this practice to give an unfair advantage from

an electrical cost basis based on standard industrial classifications of customers that are in direct competition with each other. We believe that in order to function as an ESP in the state that aggregated load be served that may or may not reach the 1 mw threshold. We believe that a large customer should coincide with the language written in the incumbent's utilities tariff.

2) whether or not retail electric competition is in the public interest

We have been working with commercial and Industrial customers who want open access to competitive rates for almost a decade and every entity that we have engaged is in favor of this concept.

3) provider of last resort

We feel that the provider of last resort needs more clarification we are seeing this 100,000 kWh threshold as being discriminatory as it relates to the practice of aggregation.

4) whether the Commission's current electric competition rules are adequate

We feel that the rules need to take into account language directly related to Aggregators that do not take title to the power. There should be a code of conduct in which aggregators are required to follow in order to conduct business.

Registration of aggregators:

Aggregators are companies that combine retail consumers into a group to increase buying power for electricity and related services. The utilities must allow the aggregation of electricity loads. Aggregators should register to demonstrate compliance to consumer protection. See attached certification in the state of Oregon.

There is a distinct difference between an ESP who takes title to the power and an aggregator who does not take title to the power but serves to aggregate the load for the ESP to serve. We feel that this language needs to be specifically addressed.

5) costs of competition

We feel that their needs to be an adjustment spread across all customer classes as it relates to the cost of competition a truing up on an annualized basis in order to capture a truly dynamic market. In the past we have found any mechanism linked to a charge or credit transition situation mostly resulted in a charge and proved to be a barrier to entry for commercial and Industrial entities wanting to enter the market due to the pricing mechanisms in place by the incumbent utility. We feel that the CTC charge should be shared amongst all rate classes and covered in the rate making process so that any barriers to open access in the market can be removed.

6) other issues related to retail electric competition.

Code of Conduct

In Oregon SB 1149 required the PUC to adopt a code of conduct for utilities and their affiliates as a protection against market abuses and anti-competitive practices. The law also required the PUC to adopt policies to eliminate barriers to a competitive retail market, including policies that alleviate market power and prohibit preferential treatment by a utility of its own generating resources or market affiliates. The PUC adopted rules that address conditioned and prohibited actions involving utility and its competitive operations or affiliates. For example, the rules address the use of the utility name and logo by its affiliate, prohibit preferential access to confidential consumer information, prohibit cross-subsidization, regulate joint marketing and exclusive referral arrangements, and require utilities to make compliance filings and to fairly treat all electricity service suppliers. The PUC also adopted a transmission and distribution access rule for providing equal treatment to competing electricity suppliers.

Safety and Reliability

Electricity service suppliers applying for PUC certification must attest that they will comply with applicable laws, rules, PUC orders and utility tariffs. Failure to comply can result in loss of certification. In addition, if a supplier owns, operates or controls electrical supply lines and facilities, it must comply with the National Electrical Safety Code and have operation and maintenance programs similar to those required for all other electric system operators in Oregon. The rules require written plans and records that are available to the PUC upon request and the reporting of certain incidents. Scheduling requirements emphasize system reliability, and scheduling commitments must be fulfilled. The utilities retain responsibility for metering services, meter ownership and meter reading. This ensures safety and reliability through uniform practices and qualified personnel, as well as protects against revenue loss and ensures correct customer billing.

The PUC also administers Service Quality Measures that provide PGE and PacifiCorp with strong regulatory incentives for maintaining high levels of safety, reliability and customer service.

Section 18 of SB 1149 provides that key provisions of the bill cannot go into effect unless the PUC certifies that a utility's ability to maintain safety and reliability will not be impaired by its implementation. The PUC made such a determination in PGE's and PacifiCorp's restructuring filings in 2001.

SB 1149 requires the Oregon PUC to develop ways to value the utility's generating assets that are freed up when a customer chooses an alternative supplier. Currently,

the PUC establishes the credit or charge through a method called ongoing valuation. Ongoing valuation compares what it would cost to supply the utility's electric loads for one year using only market purchases to what it would cost for the utility to provide the power from its own generating plants and contract purchase commitments. The transition adjustment is set annually. It is our belief that in order to really get complete buy in to electric competition any stranded cost to a utility need to be shared by all classes of customers. In the past this stranded cost mechanism proves to be a barrier to entry based on market cost.

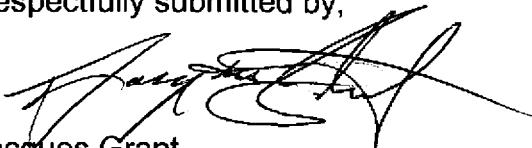
Changing suppliers

An alternative supplier may not provide service unless it has written or electronic authorization from the consumer and it has provided a Direct Access Service Request to the utility. The request is an electronic notice that contains information required by the Utility to make the switch. The request must conform to industry protocols. The utility and alternative supplier must comply with timelines in PUC rules.

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We feel that the electronic data information system needs to be user friendly with any potential ESP's that want to enter the market. In the past we found that this was a barrier to entry in the market place. It is our position that it is up to the incumbent Utility to make sure that these systems are "plug compatible".

Respectfully submitted by,



Jacques Grant
YAM Services

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

EA 13

In the Matter of)	
)	
Jacques Grant dba YAM Services)	ORDER
)	
Application to be registered as an Electricity)	
Service Aggregator.)	

DISPOSITION: APPLICATION GRANTED

NOTE: By issuing this order, the Commission makes no endorsement or certification regarding Applicant's rates or service.

INTRODUCTION

On April 4, 2006, the Commission issued Order 06-159 granting the application of Jacques Grant dba YAM Services (applicant), docketed as EA 9, to be registered as an Electricity Service Aggregator in Oregon. The applicant did not renew its registration by submitting an application for renewal on or before April 4, 2008.

On October 29, 2008, applicant filed this application with the Commission pursuant to OAR 860-038-0380. Applicant seeks authority to register as an electricity service aggregator (EA or aggregator) in Oregon.

On November 4, 2008, the Commission served notice of the application by electronic mail to the Commission's EA application electronic mail list. The Commission did not receive any protests.

Based on the application and the Commission's records, the Commission makes the following:

FINDINGS OF FACT

The Applicant, Jacques Grant, is an Oregon based sole proprietorship doing business as YAM Services. Applicant intends to combine retail electricity consumers in the

service territory of an electric company into a buying group for the purchase of electricity and related services. As an aggregator, Applicant will act as an intermediary between retail electricity consumers and an Electricity Service Supplier (ESS). The contract to purchase and sell electricity services, however, will remain between the retail electricity consumers and the ESS. Applicant is not seeking certification as an ESS under OAR 860-038-0400 and ORS 757.649.

OPINION

Applicable Law

Applications to be registered as an electricity service aggregator are filed pursuant to OAR 860-038-0380. OAR 860-038-0380(1) provides that:

For purposes of ensuring compliance with Commission standards for consumer protection, an aggregator must be registered by the Commission to combine retail electricity consumers in the service territory of an electric company into a buying group for the purchase of electricity and related services.

To be registered as an EA, Applicant has agreed, in its application, to the following requirements of OAR 860-038-0380(5) - (9):

- (5) (a) Furnish to consumers a toll-free number or local number that is staffed during normal business hours to enable a consumer to resolve complaints or billing disputes and a statement of the aggregator's terms and conditions that detail the consumer's rights and responsibilities;
 - (b) Comply with all applicable state and federal laws, rules, and Commission orders applicable to aggregators; and
 - (c) Adequately respond to Commission information requests applicable to aggregators and related to the provisions of this rule within 10 business days.
- (6) An aggregator must take all reasonable steps, including corrective actions, to ensure that persons or agents hired by the aggregator, including but not limited to officers, directors, agents, employees, representatives, successors, and assigns adhere at all times to the terms of all state and federal laws, rules, and Commission orders applicable to aggregators.
- (7) Annually, 30 days prior to expiration, a registered aggregator must notify the Commission that it will not be renewing its registration or it must renew its registration by submitting an application for renewal that includes an update of information specified in section (4) of this rule. The aggregator must state that it continues to attest that it will meet the requirements of section (5) of this rule. The authorized representative of

the aggregator must state that all information provided is true and correct and sign the renewal application. The renewal is granted for a period of one year from the expiration date of the prior registration.

(8) No aggregator may make material misrepresentations in consumer solicitations, agreements, or in the administration of consumer contracts. Aggregators may not engage in dishonesty, fraud, or deceit that benefits the aggregator or disadvantages consumers.

(9) An aggregator must promptly report to the Commission any circumstances or events that materially alter information provided to the Commission in the registration process.

CONCLUSIONS

Applicant has met the requirements to be registered as an electricity service aggregator. The application should be granted.

ORDER

IT IS ORDERED that:

1. The application of Jacques Grant dba YAM Services, to be registered as an electricity service aggregator, is granted.
2. Applicant may provide authorized services in Oregon as an electricity service aggregator for a period of one year from the date of this order.
3. Applicant shall comply with the conditions set forth in this order.

Made, entered, and effective NOV 20 2008



A handwritten signature in black ink, appearing to read "Lee Sparling", is written over a horizontal line.

Lee Sparling
Director
Utility Program

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.